

REMARKS

Claims 1-9 and 11-20 are pending in this application. By this Amendment, claims 8, 9, 11, 12 and 16 are amended, and claim 10 is canceled. No new matter is added. In view of at least the following remarks, reconsideration and allowance are respectfully requested.

Applicants greatly appreciate the allowance of claims 1-7 and 17-20, and the indication of allowable subject matter in claims 12-15.

The courtesies extended to Applicants' representative by Examiner Crepeau at the interview held May 30, 2007 are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

The Office Action rejects claims 8-11 and 16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,939,218 to Mizuno ("Mizuno"). This rejection is respectfully traversed.

As discussed in the interview, Mizuno fails to disclose an operation state determining apparatus that determines an operating state of a fuel cell battery based on both an impedance measurement and a voltage measurement. Accordingly, Mizuno fails to anticipate claim 8 because it does not disclose "an operation state determining portion that determines which one of a low fuel gas state, a low oxidizing gas state, a flooded state and a dried up state is the operation state by determining which operation state corresponds to the impedance measured by the impedance measuring portion and the voltage measured by the voltage measuring portion." The claimed subject matter is directed to an apparatus that determines an operation state based on both the impedance and voltage measurements, where an operating state corresponds to an impedance measurement and voltage measurement.

In contrast, Mizuno discloses an apparatus that determines an operating state of a fuel cell based on only one of the voltage value or the impedance value. For example, as can be


seen in col. 8, lines 7-22, the apparatus may determine that the oxygen is insufficient based on only the voltage. Additionally, as can be seen at col. 8, lines 37-50, the apparatus may determine that the fuel cell is in a dry state based on only the impedance value. However, Mizuno does not disclose or suggest using the combined information from voltage and impedance measurements to determine an operating state of the vehicle. Claim 16 recites similar features to those referred to in claim 9. Thus, for at least this reason, claims 9 and 16 are patentable over Mizuno.

Claims 9 and 11 depend from claim 8, and are therefore patentable over Mizuno for at least the reasons enumerated above, as well as for the additional features they recite.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-9 and 11-20 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


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